REMARKS

Claims 11 and 38-41 have been amended. Proper support for the amendments to claims 11 and 38-41 is found in the specification, at least at paragraphs [0090] - [0092]. Claims 11-20, 22-24 and 38-41 are pending and under consideration. Claims 11 and 38-41 are the independent claims. No new matter is presented in this Amendment.

INTERVIEW SUMMARY:

On November 14, 2007 a telephonic interview was conducted between Examiner Crepeau and Applicants' representative. During the interview, the independent claims were discussed as well as the cited references, JP '813 and Maegawa. In particular, the drying temperature of JP '813 were discussed and the machine translation of this reference. The Examiner indicated that a certified translation of JP '813 would be provided in the following Office Action, clarifying the drying temperature taught by JP '813.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 11-20, 22-24, and 38-40 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP-171813 in view of Maegawa et al. (U.S. Patent No. 6,383,235).

Applicants respectfully traverse this rejection for at least the following reasons.

Regarding the rejection of independent claim 11, it is noted that claim 11 recites a method of preparing a positive active material for a rechargeable lithium battery comprising: coating at least one lithiated compound with an organic solution of coating material source or an aqueous solution of coating material source to produce a coated lithiated compound; and drying the coated lithiated compound at a temperature of approximately 60°C to 100°C forming a surface treatment layer on the coated lithiated compound without further heat-treating the dried coated lithiated compound, wherein the surface treatment layer includes a coating element-included hydroxide, oxyhydroxide, oxycarbonate, hydroxycarbonate or a mixture thereof, and wherein the at least one lithiated compound is prepared by mixing a lithium source, a metal source, and a solvent and the mixture is heat-treated twice.

JP '813 discloses a non-aqueous electrolyte secondary battery that uses an anode active

material or a cathode active material coated with an inorganic ion conductive film (paragraph [0015]). The anode or lithiated compound is manufacture by mixing lithium carbide and cobalt carbide and curing the mixture for 5 hours at 900°C thus forming $LiCoO_2$ (paragraph [0035]). In other words, JP '813 discloses a method for forming the lithiated compound by mixing lithium and cobalt carbide and curing the mixture.

Accordingly, Applicants respectfully assert that JP '813 fails to teach or suggest preparing the compound by mixing a lithium source, a metal source, and a solvent and heat-treating the mixture twice, as recited in independent claim 11.

Therefore, Applicants respectfully assert that JP '813 fails to teach or suggest at least this novel feature of independent claim 11.

Maegawa on the other hand is relied upon for a teaching of features other than those of preparing the compound by mixing a lithium source, a metal source, and a solvent and heat-treating the mixture twice. In particular, Maegawa is relied upon solely to teach a spray-drying method and thus fails to cure the deficiencies of JP '813.

Accordingly, Applicants respectfully assert that the rejection of claim 11 under 35 U.S.C. § 103(a) should be withdrawn because neither JP '813 nor Maegawa, whether taken singly or combined, teach or suggest each feature of independent claim 11. Therefore, it is respectfully submitted that claim 11 distinguishes over the prior art.

Regarding the rejections of independent claims 38-40, it is noted that these claims recite substantially similar subject matter as claim 11. Thus, the rejections of these claims are also traversed for the reasons set forth above.

Furthermore, Applicants respectfully assert that the rejection of dependent claims 12-20 and 22-24 under 35 U.S.C. § 103(a) should be withdrawn at least because of their dependency from claim 11 and the reasons set forth above, and because the dependent claims include additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 12-20 and 22-24 also distinguish over the prior art.

Claim 41 is rejected under 35 U.S.C. §103(a) as being unpatentable over JP 9-171813 in view of Maegawa as applied to claims 11-20, 22-24, and 38-40 above, and further in view of Shindo et al. (U.S. Patent No. 6,045,947).

Applicants respectfully traverse this rejection for at least the following reason.

Claim 41 recites a method of preparing a positive active material for a rechargeable lithium battery comprising: coating at least one lithiated compound having an average diameter of 10μm with an organic solution of coating material source or an aqueous solution of coating material source to produce a coated lithiated compound; and drying the coated lithiated compound at a temperature of approximately 60°C to 100°C forming a surface treatment layer on the coated lithiated compound without further heat-treating the dried coated lithiated compound, wherein the surface treatment layer includes a coating element-included hydroxide, oxyhydroxide, oxycarbonate, hydroxycarbonate or a mixture thereof, and wherein the at least one lithiated compound is prepared by mixing a lithium source, a metal source, and a solvent and the mixture is heat-treated twice.

As noted above, neither JP '813 nor Maegawa teach or suggest preparing the lithiated compound by mixing a lithium source, a metal source, and a solvent and heat-treating the mixture twice.

Shindo on the other hand is relied upon for a teaching of features other than those of the preparation of the lithiated compound. Therefore, Shindo fails to cure the deficiencies of JP '813 and Maegawa.

Accordingly, Applicants respectfully assert that the rejection of claim 41 under 35 U.S.C. § 103(a) should be withdrawn because neither JP '813, Maegawa, nor Shindo, whether taken singly or combined, teach or suggest each feature of independent claim 41. Therefore, it is respectfully submitted that claim 41 distinguishes over the prior art.

DOUBLE PATENTING:

Claims 11-20, 22-24, and 38-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent Nos. 6,753,111, 6,797,435, and 6,846,592 in view of Maegawa.

Since claims 11-20, 22-24 and 38-40 of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer would be premature.

As such, it is respectfully requested that Applicants be allowed to address any

obviousness-type double patenting issues remaining once the rejections of the claims under 35 U.S.C. §103 are resolved.

Claim 41 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent Nos. 6,797,435 and 6,846,592 in view of Maegawa as applied above and further in view of Shindo et al.

Since claim 41 of the instant application has not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer would be premature.

As such, it is respectfully requested that Applicants be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claim under 35 U.S.C. §103 is resolved.

Claims 11-20, 22-24, and 38-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application No. 10/944,892.

Since claims 11-20, 22-24 and 38-40 of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer would be premature.

As such, it is respectfully requested that Applicants be allowed to address any provisional obviousness-type double patenting issues remaining once the rejections of the claims under 35 U.S.C. §103 are resolved.

Claim 41 is provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application No. 10/944,892 in view of Maegawa as applied above and further in view of Shindo et al.

Since claim 41 of the instant application has not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer would be premature.

As such, it is respectfully requested that Applicants be allowed to address any provisional obviousness-type double patenting issues remaining once the rejection of the claim under 35

U.S.C. §103 is resolved.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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